

VIRGINIA:

BEFORE THE BOARD OF OPTOMETRY

IN RE: **DAVID A. TUFTS, O.D.**
 License No.: 0601-002005
 Complaint No.: 96-00624



CONSENT ORDER

Pursuant to § 9-6.14:11 and § 54.1-2400(8) of the Code of Virginia, an Informal Conference Committee ("Committee") of the Virginia Board of Optometry ("Board"), composed of Gordon Jennings, O.D. and Lowell Gilbert, O.D., met with David A. Tufts, O.D., on May 13, 1996 in Henrico County, Virginia. Dr. Tufts appeared in person and was represented by counsel, D. Patrick Lacy, Jr., Esquire. The purpose of the Informal Conference was to receive and act upon evidence concerning the allegations in the Notice of Informal Conference dated April 18, 1996.

FINDINGS OF FACT

After consideration of the evidence and statements concerning the allegations, the Committee makes the following Findings of Fact:

1. David A. Tufts, O.D., holds license number 0601-002005 issued by the Virginia Board of Optometry.
2. On or about August 30, 1995, Dr. Tufts entered a lease agreement with Apple Blossom Optics, Ltd., t/a Sterling Optical, for space for his optometry practice and the use of optometric equipment.

CONCLUSIONS OF LAW

The Board concludes that Finding of Fact #2 constitutes a violation of § 54.1-3205(A) and § 54.1-3215(16) of the Code of Virginia (1950), as amended.

CONSENT

David A. Tufts, O.D., by affixing his signature hereon, agrees to the following:

1. He has been advised specifically to seek the advice of counsel prior to signing this document;
2. He is fully aware that without his consent, no legal action can be taken against him except pursuant to the Virginia Administrative Process Act, § 9-6.14:1 et seq of the Code of Virginia;

3. He has the following rights, among others:
 - a. the right to a formal fact-finding hearing before the Board;
 - b. the right to representation by counsel; and
 - c. the right to cross-examine witnesses against him.
4. He waives all rights to a formal hearing;
5. He admits the truth of the above Findings of Fact; and
6. He consents to the following Order affecting his license to practice optometry in the Commonwealth of Virginia.

ORDER

WHEREFORE, on the basis of the foregoing Findings of Fact, Conclusions of Law, and with the consent of the licensee, it is hereby ORDERED that:

1. David A. Tufts, O.D., shall be assessed a monetary penalty of FIVE HUNDRED DOLLARS (\$500.00), said penalty to be paid to the Board by certified check or money order within thirty (30) days from the date of entry of this Consent Order. If said monetary penalty is not received within the prescribed deadline, an additional ONE HUNDRED DOLLAR (\$100.00) late fee shall be assessed weekly, up to a maximum of ONE THOUSAND DOLLARS (\$1000.00). Failure to pay the full monetary penalty plus the additional assessment within one hundred (100) days of the date of entry of this Consent Order shall constitute grounds for an administrative proceeding.
2. Dr. Tufts shall provide the Board office, within thirty (30) days from the date of entry of this Consent Order, with a copy of the architectural remodeling design of his optometry practice to ensure that the door connecting his practice and Sterling Optical has been permanently removed and that he is operating in compliance with the Code of Virginia and the Regulations of the Board of Optometry. Within six (6) months from June 30, 1997, his practice shall be subject to an unannounced inspection.
3. Dr. Tufts shall maintain a course of conduct commensurate with the requirements of Chapter 32, Title 54.1 of the Code of Virginia (1950), as amended, and the Board of Optometry

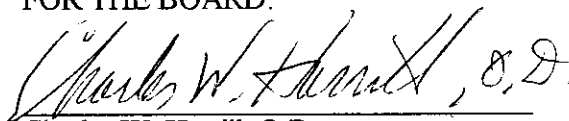
D. Tufts, O.D.

Regulations.

Any violation of the foregoing terms and conditions of this Consent Order or any statute or regulation governing the practice of optometry in the Commonwealth of Virginia shall constitute grounds for the suspension or revocation of the license of David A. Tufts, O.D., and an administrative proceeding shall be convened to determine whether Dr. Tuft's license to practice optometry in the Commonwealth shall be suspended or revoked.

Pursuant to § 9-6.14:14 of the Code of Virginia, the signed original of this Consent Order shall remain in the custody of the Department of Health Professions as a public record and shall be made available for public release, inspection and copying upon request.

FOR THE BOARD:



Charles W. Harrill, O.D.
President

ENTERED: 2/7/97

D. Tufts, O.D.

SEEN AND AGREED TO:

David A. Tufts, O.D.
David A. Tufts, O.D.

COMMONWEALTH OF VIRGINIA
CITY/COUNTY OF Winchester

Subscribed and sworn to before me, a Notary Public in and for the city/county of Winchester, this 2nd day of Jan, 1996, by David A. Tufts, O.D.

Annayla T. One
Notary Public

My Commission Expires: 7-31-99

Certificate of Service

I hereby certify that a true copy of the foregoing Consent Order was mailed to Tamar A. Tufts, Esquire, Stone & Tufts, 51 Monroe Street, Suite 503, Rockville, MD 20850 and David A. Tufts, O.D., 508 Smoketree Court, Frederick, MD 21703, on the 11th day of February, 1996.

Elizabeth A. Carter, Ph.D.
Elizabeth A. Carter, Ph.D.
Executive Director
Board of Optometry